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JAN 27 2005

Technology Center 2100

In re Application of: Harris)
Application No. 10/693,590) DECISION ON PETITION TO
Filed: October 24, 2003) MAKE SPECIAL UNDER 37 C.F.R.
For: CONSTRUCTION PROJECT) §1.102(d) and M.P.E.P. §708.02(II)
SUBMITTAL MANAGEMENT) INFRINGEMENT

This is a decision on the petition, filed October 27, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

M.P.E.P. §708.02, Section (II) sets out the prerequisites for a grantable petition under 37 C.F.R. §1.102(d) states in relevant part:

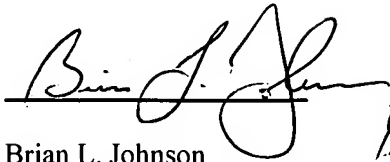
Section (II) Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

- (A) That there is an infringing device or product actually on the market or method in use;
- (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicants must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition meets the criteria of Section (II) by stating (A) "To the best of my knowledge, there is an infringing method actually on use in the market, evidenced at least by alleged infringer's website"; (B) "I have made a rigid comparison of the alleged infringing method with the claims of the above-identified application, and, in my opinion, some of the claims are unquestionably infringed"; and (C) "I have made or have caused to be made a careful and thorough search of the prior art and I believe that I have a good knowledge of the pertinent prior art.". Applicants also state that "One copy each of the references deemed by Applicant to most closely relate to the subject matter encompassed by the claims has already been made of record in the above-identified application."

The Petition is **GRANTED**.

Application SN 10/693,590
Decision on Petition

A handwritten signature in black ink, appearing to read "Brian L. Johnson", written over a horizontal line.

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1/26/05

HMJ: 01/24/2005